IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

WRIT PETITION NO.4834 OF 2007

Shri Satyanarayan Rampratap Loya,
through G.P.A. Holder:
Sau. Sangita Rajendra Zhawar : Petitioner

V/s.

Prakash Manakchand Bafna & Ors. : Respondents

...

Mr.Sachin Punde for the petitioner.

Mr.S.S.Kanetkar for the respondents.

...

CORAM : S.A.BOBDE, J.

DATE : AUGUST 09, 2007.

P.C.

1. Rule, returnable forthwith.

Mr.Kanetkar waives service for the respondents.

Heard by consent.

2. The trial Court has rejected the petitioner's application for amendment. By the proposed amendment, the petitioner sought a change in the description of the boundaries of the suit property. The trial Court has rejected the application on the ground that the trial has already commenced and, therefore, the amendment ought not

to be allowed, particularly since there is a want of diligence on the part of the petitioner in making the application for amendment. The trial Court also rejected the application for amendment on the ground that in an earlier suit between the very same parties, the petitioner had given certain description of the suit property. The issue had been framed and the Court had answered that issue by holding that the suit property had been properly described. The trial Court has held that the issue of description of the property has been decided in former R.C.S. No.8/1999 and, therefore, the description of the property cannot be amended in this suit. It is noteworthy that it is not the petitioner's case that because of subsequent change in the tenanted premises, the petitioner had granted greater area to the respondents and is, therefore, now seeking a change in the description of the property.

3. In these circumstances, there is no reason to interfere with the order of the trial Court. The petition is dismissed. The rule stands discharged.

S.A. BOBDE, J.